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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,580	02/27/2004	Eric W. Reimers	60514-302603	9138

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INTELLECTUAL PROPERTY LAW OFFICE
1901 S. BASCOM AVENUE, SUITE 660
CAMPBELL, CA 95008

EXAMINER

PHAN, HAU VAN

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/788,580

Applicant(s)

REIMERS ET AL.

Examiner

Hau V Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 29-45 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 6,698,789. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims are either anticipated by, or would have been obvious over, the reference claims 1-18. See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985). Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 29-45 are generic to the combination with the collapsible golf cart recited in claims 1-18 of U.S. Patent No. 6,698,789. That is, claims 1-18 of U.S. Patent No. 6,698,789 falls entirely within the scope of claims 29-45, or, in other words, claims 29-45

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are anticipated by claims 1-18 of U.S. Patent No. 6,698,789. Specifically, a collapsible golf cart comprising a frame, a handle, a front wheel, a rear wheel, at least one link, a front wheel mount, a first and second wheel struts rod had been previously claimed in the claims of patent number 6,698,789.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 37-39 and 43-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Nemeth (4,106,583).**

Nemeth, in figures 1-2 and 8, discloses a golf bag cart comprising a frame (12) having an upper end and a lower end, a handle (18) attached to the upper end of the frame, a front wheel (58) attached to the lower end of the frame and first and second rear wheels (28, 30). The handle being pivotally attached to the frame at the upper frame pivot so that the handle pivots about the upper frame pivot from an extended position to a collapsed position. Nemeth also discloses first and second wheel struts (14, 16) to which the first and second rear wheels are rotatably mounted. The first and second wheel struts being pivotally mounted to the frame by mid-frame pivots (note linkage 22, 156 and collar 154). The wheel struts also coupled together such that the rear wheels move in unison

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towards each other as well as towards the lower end as the golf bag cart collapsed. The handle is pivotally attached to the frame at an upper frame pivot, so that the handle pivots about the upper frame pivot from an extended position to a collapsed position. Nemeth further discloses a front wheel mount (60) to which the front wheel is rotatably mounted. The front wheel mount pivotally attached to the frame by a lower frame pivot (62). The front wheel and the wheel mount pivot about the lower frame pivot so that the front wheel is capable of moving towards the rear wheels, such that the rear wheel and the front wheel are substantially aligned when the golf cart is in collapsed configuration (see figure 2).

Regarding claim 38, Nemeth discloses a lower bag support mounted on the frame to support the lower end of a golf bag during usage, wherein the lower bag support vertically overlaps the front wheel during usage.

Regarding claim 39, Nemeth discloses a lower bag support mounted on the frame to support the lower end of a golf bag during usage and a handle at the upper end of the frame, to permit a user to grasp the handle and push the golf cart thereby, wherein the front wheel is situated opposite the handle with the lower bag support being situated therebetween during usage.

Regarding claim 44, Nemeth discloses the front wheel extends forward of the lower end of the frame when the golf bag push cart is not collapsed, and pivots underneath and rearward of the lower end of the frame when

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Regarding claim 45, Nemeth discloses the front wheel rotates to a position vertically above the axis of the rear wheels when the golf bag push cart is in the collapsed position.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christ Ellis can be reached on 703-308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hau V Phan
2/23/05

Hau V Phan
Examiner
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